

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner  
Marshall Johnson  
Phyllis A. Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of Notice of Petition for Wire  
Telephone Service

ISSUE DATE: August 18, 2003

DOCKET NO. P-407/EM-03-699

ORDER REQUIRING FURTHER COST  
ESTIMATES

**PROCEDURAL HISTORY**

In the *Ely* docket,<sup>1</sup> the Commission ordered Citizens Telecommunications Company of Minnesota, Inc. (Citizens), to begin offering service to a region near Ely, Minnesota. The Commission also directed Citizens to provide landline phone service to the petitioners in that docket without requiring the petitioners to pay line extension charges, and to provide wireless service on an interim basis.

On May 5, 2003, the current docket began when the Commission received a petition from three families – the Gundersons, the Kolkman and the Wards – living within Citizens’ newly-assigned service area. These families asked to receive landline service without having to pay line extension charges.

On June 6, 2003, Citizens and the Minnesota Department of Commerce (the Department) filed comments; by June 20, they had filed reply comments.

The matter came before the Commission for decision on August 7, 2003. At the Department’s request, the hearing was attended by RCC Minnesota, Inc., a cellular telecommunications company seeking ETC designation in the region.<sup>2</sup>

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<sup>1</sup> *In the Matter of a Petition for Assignment of an Eligible Telecommunications Carrier to Provide Service in Unassigned Areas of Northern Minnesota*, Docket No. P-999/CP-98-1193 (*Ely* docket).

<sup>2</sup> See *Petition of RCC Minnesota, Inc., and Wireless Alliance, LLC, for Designation as an Eligible Telecommunications Carrier Under 27 U.S.C. § 214(e)(2)*, Docket No. PT-6182, 6181/M-02-1503.

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

#### **A. Tariffs and Line Extension Charges**

By law, telephone companies file tariffs with the Commission setting forth the services they provide and the corresponding charges.<sup>3</sup> A tariff will state the terms under which a company will install service at a new location. A tariff may state, for example, that the company will extend service to some extent without imposing additional charges on the customer, but will impose charges for extending facilities beyond that point.

Citizens states that it imposes a line extension charge to the extent that the cost of extending facilities exceeds \$1197 for a residential line or \$2394 for a business line.<sup>4</sup>

#### **B. ETCs and the *Ely* Docket**

The federal Telecommunications Act of 1996<sup>5</sup> establishes the goal that –

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.<sup>6</sup>

To further this goal, among others, the Federal Communications Commission (FCC) created a process to subsidize the operations of qualified local service providers (called “eligible telecommunications carriers” or ETCs). To qualify as an ETC a carrier must offer certain basic

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<sup>3</sup> Minn. Stat. §§ 237.075, 237.63.

<sup>4</sup> Citizens’ tariff states that “Line Extensions are additions made by the Company to its line facilities beyond those now existing, to provide for service to business or residential customers.” According to the tariff, Citizens charges customers for line extensions for which the “[c]ost of construction exceed[s] 7 times the annual primary service revenue.” Citizens General and Local Exchange Service, Section 5, sheet 36; Attachment 4 “GENERAL SERVICES LINE EXTENSION CHARGES.”

Citizens charges \$14.25 per month for residential service and \$28.50 per month for business service. Consequently, Citizens imposes a line extension charge to the extent the cost to extend facilities exceeds \$1197 (\$14.25 per month x 12 months per year x 7 years) for a residential line or \$2394 (\$28.50 per month x 12 months per year x 7 years) for a business line.

<sup>5</sup> Pub. L. No. 104-104, 110 Stat. 56, codified throughout title 47, United States Code.

<sup>6</sup> 47 U.S.C. § 254(b)(3); see also Minn. Stat. § 237.011 (“Telecommunications Goals”).

services, and advertise the availability and price of these services, throughout a designated service area.<sup>7</sup> The Act directs the FCC and state commissions to determine which carriers qualify as ETCs, and to assign ETCs to requesting communities that no ETC has chosen to serve.<sup>8</sup>

In 1998 the Commission received a petition to assign an ETC to serve areas around Ely, Minnesota, initiating the *Ely* docket. Eventually the Commission selected Contel of Minnesota, Inc. d/b/a GTE Minnesota (GTE) as the ETC.<sup>9</sup> GTE was subsequently acquired by Citizens.<sup>10</sup> In the process of extending service to the petitioners, Citizens agreed to begin installing landline service to the petitioners without imposing line extension charges, and to provide the petitioners with wireless service in the interim.<sup>11</sup> Citizens refers to that wireless service as ECI service.

## **II. The Petitioners and the Petition**

The petitioners live roughly 30 miles from Ely, in Lake County, Minnesota. The Kolkmans and Wards live within a mile of each other, near the intersection of Tomahawk Road and the Kelly Trail; the Gundersons live more than four miles further north along the Kelly Trail, at the edge of Birch Lake.

The petitioners seek the same relief granted in the petitioners in the *Ely* docket. The Wards currently receive no phone service from Citizens. The Gundersons have been longtime customers of GTE and now Citizens; they currently receive wireless service using BETRs technology which was installed in 1990. The Kolkmans have received wireless service from Citizens since 2000 using ECI technology.

These two wireless technologies apparently provide service of different quality. The Gundersons argue that their BETRs service is inadequate. For example, it does not permit internet transmissions and does not provide enhanced 911 emergency service. The Kolkmans do not express these concerns about their ECI service, although they do express concern about the risk of a service outage if the batteries powering the phone became depleted.

The petitioners claim that they believed that they had been included on the list of petitioners in the *Ely* docket, and that they should receive the same relief as those petitioners received.

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<sup>7</sup> 47 U.S.C. § 214(e).

<sup>8</sup> 47 U.S.C. § 214(e)(3); 47 C.F.R. § 54.203(a).

<sup>9</sup> See *Ely* docket, ORDER REQUIRING GTE TO PROVIDE SERVICE TO TERRITORY (July 28, 1999).

<sup>10</sup> *In the Matter of the Joint Petition of Citizens Utilities Company and GTE Corporation for Approval of Citizens Acquisition of GTE Telephone Properties*, Docket No. P-5316, 407/PA-99-1239, ORDER APPROVING SALE, GRANTING ETC STATUS, AND ISSUING CERTIFICATE OF AUTHORITY AND REQUIRING FILINGS (July 24, 2000).

<sup>11</sup> *Ely* docket, ORDER GRANTING EXTENSION SUBJECT TO CONDITIONS AND REQUIRING INTERIM SERVICE (January 6, 2000).

### III. Responses to the Petition

#### A. Citizens

Citizens states that it is willing to extend landline service to the petitioners on the terms set forth in its tariff, including line extension charges. Citizens notes that its nearest facilities are approximately one mile south of the intersection of Tomahawk Road and the Kelly Trail. Citizens estimates the charges for providing landline service to each family individually as follows:

	Line extension charge	Primary service order charge and line connection charge	Monthly recurring charge
Gundersons	\$362,686		\$28.50 + taxes, etc. (business line)
Kolkmans	\$ 29,268		\$14.25 + taxes, etc. (residential line)
Wards	\$ 26,568	\$ 30 (for new customers)	\$14.25 + taxes, etc. (residential line)

The individual line extension charges would be reduced somewhat if two or more families ordered service, permitting the sharing of facilities.

Citizens denies that it has a statutory duty to waive the application of its tariffed line extension charges in this context, and can find no evidence that the current petitioners were among the petitioners in the *Ely* docket. Moreover, Citizens argues that the Commission already addressed and resolved the Gundersons' request. In the *Ely* docket the Commission ordered Citizens to incorporate the Gundersons' property into Citizens' service area with the understanding that the Gundersons would have to pay Citizens' tariffed fees for service installation and line extensions to obtain landline service.<sup>12</sup> Citizens argues that the Kolkmans' and the Wards' petitions should be resolved similarly.

Citizens also argues that the legal circumstances have changed since the *Ely* docket. The Minnesota Court of Appeals recently remanded a Commission order requiring a telephone company to waive its excess construction charges when extending service to new customers near Tofte, Minnesota.<sup>13</sup>

Finally, Citizens claims that the Kolkmans have not alleged that their wireless service is inadequate. Citizens argues that there is no compelling need to relieve the Kolkmans of the duty to pay the cost of installing landline service when they are already receiving adequate wireless service.

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<sup>12</sup> *Ely* docket, ORDER WAIVING 90-DAY DEADLINE FOR INSTALLING WIRELINE SERVICE AND REVISING EXCHANGE BOUNDARIES (February 27, 2001).

<sup>13</sup> See *In the Matter of the Request for Service in Qwest's Tofte Exchange*, File No. C2-02-2079, (Commission Docket No. P-421/CP-00-686) slip op. (Minn. Ct. App., issued July 22, 2003).

## **B. The Department**

Initially the Department reserved comment pending developments in the *Tofte* case. But at hearing the Department argued that the Gundersons' service is inadequate, and asked the Commission to direct all ETCs serving the petitioners' area – including Citizens and RCC – to develop proposals to serve the petitioners.

## **C. RCC**

RCC states that it has just recently learned of this proceeding, and had not yet developed any positions on the petitioners' requests. Moreover, RCC notes that it has not yet been designated as an ETC in Minnesota and is not even a party to the current docket. Consequently, RCC argues that it is premature to expect RCC to take action in this case.

## **IV. Commission Action**

The Commission finds that action on these petitions would benefit from further record development.

Cost is a central issue in this docket. Citizens has developed cost estimates for installing landline service by plowing cable along the Kelly Trail. But the Commission notes that in the *Ely* docket Citizens acquired regulatory approval to install landline cable through bodies of water. Since the Gundersons property adjoins Birch Lake, and Citizens already provides landline service to other customers on that lake, the Commission seeks information about the cost of installing landline cable through the lake rather than plowing the cable along roadways. At hearing, Citizens was unable to estimate the cost of providing service using this scenario.

In addition, while Citizens currently uses its ECI wireless technology to serve the Kolkman, Citizens prepared no cost estimates for serving either the Gundersons or the Wards using this technology. The Commission regards this scenario as an option worth exploring as well.

Consequently, the Commission will direct Citizens to work with the Gundersons to explore less expensive ways of providing landline service to their property, including the option of laying cable through Birch Lake. Additionally, the Commission will direct Citizens to estimate the cost of providing wireless service to the Gundersons and the Wards. Citizens shall report its findings to the Commission.

Since RCC is not yet designated as an ETC serving this service area, the Commission will decline the Department's recommendation to require similar cost estimates from RCC at this time.

The Commission will so order.

## **ORDER**

1. Citizens Telecommunications Company of Minnesota, Inc., shall –
  - work with the Gundersons to explore less expensive ways of providing landline service to their property, including the option of laying cable through Birch Lake, and
  - study the cost to provide wireless service to the Gundersons and the Wards.

Citizens shall report its findings to the Commission.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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